



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FIRST CLASS MAIL**

**MAY 11 2009**

William J. McGinley  
Kathryn Biber Chen  
Patton Boggs  
2550 M Street NW  
Washington, DC 20037

RE: MUR 6071

Dear Mr. McGinley:

On September 22, 2008 the Federal Election Commission notified Kirk for Congress ("Committee") and Luke F. Praxmarer, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On April 9, 2009, based upon the information contained in the complaint, and information provided by you on behalf of the Committee, the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on April 9, 2009.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). A copy of the dispositive General Counsel's Report is enclosed for your information.

If you have any questions, please contact Kim Collins, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Thomasenia P. Duncan  
General Counsel

BY:

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

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1 communication), because it contains a prominent logo identifying Congressman Mark Kirk  
2 and includes in large type an email address for the Committee, which states  
3 "kirkforcongress.com." The Committee also asserts that, based on its brief review of the  
4 email records of the campaign staff member who sent the email at issue, the flier was not sent  
5 via mass distribution. Instead, the respondent claims that it appears the email was sent to a  
6 limited number of individuals and the complainant failed to provide any evidence to the  
7 contrary.

8 In recognition of the possibility that the email at issue could have had a limited  
9 distribution pattern and, therefore, may or may not have fallen under the disclaimer  
10 provisions of the Act, and in furtherance of the Commission's priorities and resources,  
11 relative to other matters pending on the Enforcement docket, the Office of General Counsel  
12 believes that the Commission should exercise its prosecutorial discretion and dismiss the  
13 matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

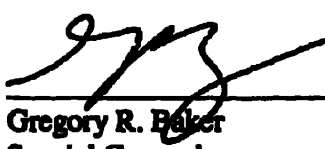
14 **RECOMMENDATION**

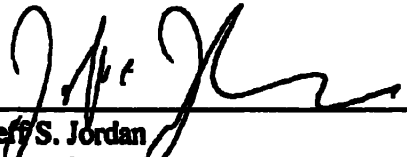
15 The Office of General Counsel recommends that the Commission dismiss  
16 MUR 6071, close the file, and approve the appropriate letters.

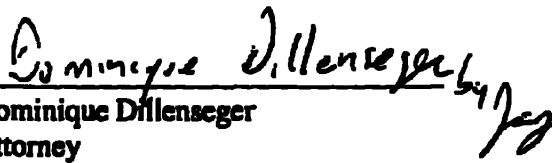
17 Thomasenia P. Duncan  
18 General Counsel

19  
20  
21 3/24/09  
22 Date

BY:

  
Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

  
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Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

  
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Dominique Dillenseger  
Attorney

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